

STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
BUREAU OF INSURANCE

IN RE: REVIEW OF AGGREGATE	)	
MEASURABLE COST SAVINGS	)	
DETERMINED BY DIRIGO	)	NOTICE OF PENDING
HEALTH FOR THE SECOND	)	PROCEEDING AND HEARING
ASSESSMENT YEAR	)	
	)	
Docket No. INS-06-900	)	

Superintendent of Insurance Alessandro A. Iuppa issues this Notice of Pending Proceeding and Hearing in the above-captioned matter.

I. PENDING PROCEEDING & PUBLIC HEARING

Pursuant to 5 M.R.S.A. § 9052, 24-A M.R.S.A. § 230, and Bureau of Insurance Rule Chapter 350, the Superintendent hereby gives notice of a pending proceeding to review the determination of aggregate measurable cost savings to be made by the Board of Directors of the Dirigo Health Agency. Pursuant to 24-A M.R.S.A. §§ 6913(1)(A) and 6913(1)(B), the Dirigo Board is required to file with the Superintendent the Board's determination of aggregate measurable cost savings, including any reduction or avoidance of bad debt and charity care costs to health care providers in this State as a result of the operation of Dirigo Health and any increased MaineCare enrollment due to an expansion in MaineCare eligibility occurring after June 30, 2004. The Dirigo Board is required to make its determination of aggregate measurable cost savings for the second assessment year via an adjudicatory proceeding (the "Dirigo Proceeding") no later than May 12, 2006. *Maine Association of Health Plans, et al. v. Dirigo Health Agency*, KENSC-AP-06-26 (Me. Super. Ct., Ken. Cty., April 14, 2006) (Marden, J.). The Dirigo Board's filing of its determination and supporting information for that determination must be made to the Superintendent within thirty (30) days after the Board's determination. 24-A M.R.S.A. § 6913(1)(B).

Pursuant to 24-A M.R.S.A. § 229 and the requirements of 24-A M.R.S.A. § 230, 5 M.R.S.A. § 9052, and Bureau of Insurance Rule Chapter 350, the Superintendent hereby gives notice that a public hearing will be held to review the Dirigo filing. Members of the public are invited to attend the hearing. Given the uncertainty inherent in the timing of this proceeding due to the 30-day window within which the Dirigo Board may file its determination with the Superintendent, the public hearing will begin at 9:00 a.m. in Room 209 of the Burton M. Cross Building, 111 Sewall Street, Augusta, Maine, and will be held on one of the following dates: June 5, 2006; June 15, 2006; June 29, 2006; July 12, 2006; or July 18, 2006. As soon as practicable after the Dirigo filing is received by the Superintendent the actual hearing date will be set, interested persons will be notified (see below), and the date will be posted on the Maine Bureau of Insurance website at [www.MaineInsuranceReg.org](http://www.MaineInsuranceReg.org).

Persons wishing to be placed on a list of interested persons to receive e-mail notice of the actual date of the public hearing in this proceeding shall make a written request to the attention of Vanessa J. Leon via e-mail at [Vanessa.J.Leon@maine.gov](mailto:Vanessa.J.Leon@maine.gov), or by U.S. Mail addressed to

Vanessa J. Leon, Docket No. INS-06-900, Bureau of Insurance, 34 State House Station, Augusta, Maine 04333-0034. Additionally, persons may call my legal counsel in this matter, Assistant Attorney General Thomas Sturtevant, at any time to inquire about procedural developments at telephone 207-626-8413 or may contact him via e-mail address at [Tom.Sturtevant@maine.gov](mailto:Tom.Sturtevant@maine.gov).

## II. SCOPE & STANDARD OF REVIEW

The purpose of the proceeding and hearing is for the Superintendent to review the record of the determination made by the Dirigo Board pursuant to section 6913(1)(A) and determine whether the aggregate measurable cost savings filed by the Board are reasonably supported by the evidence in the record. 24-A M.R.S.A. § 6913(1)(C). The Superintendent must issue a decision no later than six (6) weeks following receipt of the Dirigo filing. *Id.*

For purposes of determining whether the Dirigo filing is “reasonably supported by the evidence in the record” pursuant to section 6913(1)(C), the Superintendent will confine his review of the Dirigo filing to the submission made pursuant to section 6913(1)(B) and to the record of the proceeding before the Dirigo Board, except as may be otherwise expressly provided pursuant to section IV(E) below.

## III. INTERVENTION

The Dirigo Health Agency, through its Board of Directors, is a party to the proceeding. 24-A M.R.S.A. § 6913(1)(C). Other persons wishing to intervene as parties to the proceeding shall file their applications in writing with the Superintendent by 3:00 p.m. within four (4) days after the Dirigo filing is made with the Superintendent. Applications for intervention will not be considered by the Superintendent until after the Dirigo filing is made. Only those persons willing to undertake the responsibilities placed upon parties to an adjudicatory proceeding under Bureau of Insurance Rule Chapter 350 should seek intervenor status.

Persons wishing to be placed on a list of interested persons to receive e-mail notice of the date the Dirigo Board has made its filing with the Superintendent shall comply with the procedures for being placed on the interested persons list for e-mail notice of the hearing date set forth in section I above. Additionally, persons may call or e-mail my legal counsel to inquire about procedural developments in this matter as provided above.

Applications for intervention should be either hand delivered to the Superintendent at the offices of the Bureau of Insurance, 124 Northern Avenue, Gardiner, Maine, or mailed to the Superintendent at the following address:

Alessandro A. Iuppa, Superintendent  
Attn.: Vanessa J. Leon, Docket No. INS-06-900  
Bureau of Insurance  
34 State House Station  
Augusta, Maine 04333-0034

An applicant for intervention shall simultaneously serve on the Dirigo Board for receipt on the same date as service on the Superintendent a copy of the intervention application at the Dirigo Health Agency offices, 211 Water Street, Augusta, Maine, or at the following postal address:

Dirigo Health Agency  
53 State House Station  
Augusta, Maine 04333-0053

An applicant claiming intervention as of right pursuant to 5 M.R.S.A. § 9054(1) shall include in the application a statement either explaining how the applicant is or may be, or is a member of a class that is or may be, substantially and directly affected by the proceeding or identifying the applicant as an agency of federal, state, or local government. Applications for permissive intervention pursuant to 5 M.R.S.A. § 9054(2) shall contain a statement explaining and substantiating the applicant's interest in the proceeding. The Superintendent will not grant late applications without a showing of good cause.

If the Dirigo Health Agency or any other party opposes an application for intervention, it shall file a statement in opposition with the Superintendent by 3:00 p.m. two (2) days after the intervention application is filed with the Superintendent. The party opposing an application for intervention shall simultaneously serve a copy of the statement in opposition on all parties in the same manner as the service of an application for intervention.

#### IV. PROCEDURE

The proceeding will be conducted in accordance with the provisions of the Maine Administrative Procedure Act, 5 M.R.S.A. chapter 375, subchapter IV ("Maine APA"); 24-A M.R.S.A. §§ 229 to 236; Bureau of Insurance Rule Chapter 350; and any orders of the Superintendent establishing specific procedures for this proceeding. To the extent permitted by law, all procedures established by the Superintendent shall control over inconsistent or conflicting statutory or regulatory provisions.

Nothing herein shall be construed to limit the Superintendent's authority to obtain information in this proceeding pursuant to Insurance Rule Chapter 350, § 10(A) or otherwise.

##### A. Time Calculations

Unless and until otherwise ordered, the provisions of Insurance Rule Chapter 350, § 5 shall govern the computation of any period of time prescribed by the Superintendent in this proceeding.

##### B. Filing Requirements

In addition to compliance with the filing requirements of 24-A M.R.S.A. § 6913(1)(B), the Dirigo Board shall simultaneously file with the Superintendent a certified copy of the complete record of the Dirigo Proceeding. The Superintendent may require or permit subsequent

corrections to the record. If any intervenor party believes that the record filed by Dirigo is incomplete or over inclusive, that party shall notify Dirigo within seven (7) days after being granted intervenor status. This notice shall include specific proposals by the intervenor party regarding additions to or deletions from the record filed by Dirigo. The parties shall attempt to agree on the contents of the record. If the parties cannot agree, the intervenor party may request that the Superintendent modify the contents of the record.

C. Briefing Schedule

All parties to this proceeding shall file briefs. Within fourteen (14) days following the submission of the Dirigo filing all intervenor parties shall file briefs. Within seven (7) days following the deadline for the filing of intervenor briefs Dirigo shall file its brief. Any intervenor party may file a reply brief within five (5) days following the deadline for the filing of Dirigo's brief. On a showing of good cause or on his own determination the Superintendent may increase or decrease the time limits prescribed in this paragraph.

D. Oral Argument

The Superintendent will hear oral argument by Dirigo and the intervenor parties at the public hearing in this matter.

E. Discovery; Evidence

The Dirigo Board is required to conduct an adjudicatory proceeding pursuant to the Maine APA in order to make its determination of aggregate measurable cost savings for the second assessment year. 24-A M.R.S.A. § 6913(1)(A). The record of the Dirigo Proceeding and the filing made by the Dirigo Board with the Superintendent pursuant to 24-A M.R.S.A. § 6913(1)(B) shall constitute the record upon which the Superintendent will conduct his review for reasonableness. 24-A M.R.S.A. § 6913(1)(C). Any discovery conducted or evidence presented must be relevant to the issue of whether the determination of aggregate measurable cost savings made by the Dirigo Board pursuant to 24-A M.R.S.A. § 6913(1)(A) is reasonably supported on the record. *Id.*; see also 5 M.R.S.A. §§ 9056(2) and 9057(2), Bureau of Insurance Rule Chapter 350 §§ (3) and (13)(C).

A party may serve limited informational requests or present additional evidence if the Superintendent finds that the new information or additional evidence is relevant to the issue presented in this proceeding and will not cause repetition or unreasonable delay in the proceeding. Any party that intends to request leave to serve limited informational requests or to present additional evidence shall file a written motion with the Superintendent within ten (10) days after the Dirigo filing is made. After this deadline no motions to grant leave to serve informational requests will be entertained by the Superintendent. The moving party shall also file with the motion a detailed statement, in the nature of an offer of proof, of the discovery or evidence requested to be taken and the reason it is relevant to the Superintendent's determination. That statement shall be sufficient to permit the Superintendent to make a proper determination as to whether the service of informational requests or the taking of additional

evidence as presented in the motion and offer of proof is appropriate and if so to what extent. If upon receipt of responses to informational requests a party desires to present additional evidence, it shall file a written motion containing the information described above.

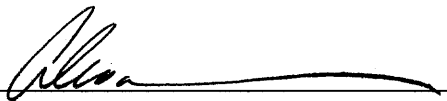
F. Miscellaneous

(1) Default. Failure of any party to appear may result in disposition by default with respect to that party. The Superintendent, however, may set aside a default for good cause.

(2) Auxiliary Aid. The Bureau of Insurance does not discriminate on the basis of disability in the admission to, access to, or operation of its programs, services, or activities. Individuals in need of auxiliary aid for effective communication in the hearing are invited to make their needs and preference known to Vanessa J. Leon at the Bureau of Insurance, telephone 207-624-8452, sufficiently in advance of the hearing so that appropriate arrangements can be made.

PER ORDER OF THE SUPERINTENDENT OF INSURANCE

DATED: April 26, 2006

By:   
ALESSANDRO A. IUPPA  
Superintendent of Insurance